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**OFFICE OF PETITIONS**

In re Application of :  
Vincent J. Contini et al :  
Application No. 10/809,344 :  
Filed: March 26, 2004 :  
Attorney Docket No. CON001-058 :

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 10, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)<sup>1</sup> must be accompanied by: (1) the required reply,<sup>2</sup> unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

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<sup>1</sup> As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

<sup>2</sup> In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Petitioner must provide evidentiary evidence which would clearly establish that this case was not the one that was to be abandoned. Further, petitioner must identify the other case(s) that was to be expressly abandoned and provide an explanation as to whether, in fact, the case intended to be expressly abandoned has now been abandoned. If the case intended to have been expressly abandoned has not been expressly abandoned, petitioner must provide an explanation as to why such action has not been taken to effect such express abandonment.

Further correspondence with respect to this matter should be addressed as follows:

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By fax: (571) 273-8300  
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.



Karen Creasy  
Petitions Examiner  
Office of Petitions